

SENATE BILL No. 483

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1.

Synopsis: Tax credits for biodiesel and gasohol. Provides income tax credits for the production and the retail sale of gasohol and biodiesel.

Effective: January 1, 2004.

Waterman

January 21, 2003, read first time and referred to Committee on Agriculture and Small Business.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

SENATE BILL No. 483

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-3.1-25 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2004]:

4 **Chapter 25. Gasohol and Biodiesel Production Tax Credit**

5 **Sec. 1. As used in this chapter, "biodiesel" means a renewable,**
6 **biodegradable, mono alkyl ester combustible liquid fuel derived**
7 **from agricultural plant oils or animal fats that meets American**
8 **Society for Testing and Materials specification D6751-02 for**
9 **biodiesel fuel (B100) blend stock distillate fuels.**

10 **Sec. 2. As used in this chapter, "ethanol" means agriculturally**
11 **derived ethyl alcohol.**

12 **Sec. 3. As used in this chapter, "gasohol" means gasoline that**
13 **contains:**

- 14 (1) at least ten percent (10%) ethanol; or
15 (2) ethyl tertiary butyl ether (ETBE) additives derived from
16 ethanol.

17 **Sec. 4. As used in this chapter, "pass through entity" means:**



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- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) a partnership;
- (3) a limited liability company; or
- (4) a limited liability partnership.

Sec. 5. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-2.5 (the state gross retail and use tax);
- (2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- (3) IC 6-5.5 (the financial institutions tax); and
- (4) IC 27-1-18-2 (the insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 6. As used in this chapter, "taxpayer" means an individual or entity that has any state tax liability.

Sec. 7. A taxpayer who produces gasohol or biodiesel at a facility located in Indiana is entitled to a credit against the taxpayer's state tax liability equal to the product of:

- (1) eighteen cents (\$0.18); multiplied by
- (2) the number of gallons of gasohol or biodiesel produced at the Indiana facility.

Sec. 8. If a pass through entity is entitled to a credit under section 7 of this chapter but does not have state tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

Sec. 9. (a) If the amount of the credit determined under section 7 of this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry over the excess to the following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

(b) A taxpayer is not entitled to a carryback or refund of any unused credit.

Sec. 10. To receive the credit provided by this chapter, a



taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department proof of the number of gallons of gasohol or biodiesel that the taxpayer produced in Indiana and all information that the department determines is necessary for the calculation of the credit provided by this chapter.

SECTION 2. IC 6-3.1-26 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]:

Chapter 26. Gasohol and Biodiesel Retailer Tax Credit

Sec. 1. As used in this chapter, "biodiesel" means a renewable, biodegradable, mono alkyl ester combustible liquid fuel derived from agricultural plant oils or animal fats that meets American Society for Testing and Materials specification D6751-02 for biodiesel fuel (B100) blend stock distillate fuels.

Sec. 2. As used in this chapter, "dealer" has the meaning set forth in IC 6-6-1.1-103.

Sec. 3. As used in this chapter, "ethanol" means agriculturally derived ethyl alcohol.

Sec. 4. As used in this chapter, "gasohol" means gasoline that contains:

- (1) at least ten percent (10%) ethanol; or
- (2) ethyl tertiary butyl ether (ETBE) additives derived from ethanol.

Sec. 5. As used in this chapter, "gasoline" has the meaning set forth in IC 6-6-1.1-103.

Sec. 6. As used in this chapter, "motor fuel" has the meaning set forth in IC 6-6-4.1-1.

Sec. 7. As used in this chapter, "pass through entity" means:

- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) a partnership;
- (3) a limited liability company; or
- (4) a limited liability partnership.

Sec. 8. As used in this chapter, "qualified fuel" means either:

- (1) biodiesel; or
- (2) gasohol.

Sec. 9. As used in this chapter, "service station" means a retail outlet where a dealer sells a motor fuel through a metered pump.

Sec. 10. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-2.5 (the state gross retail and use tax);



1 (2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
 2 (3) IC 6-5.5 (the financial institutions tax); and
 3 (4) IC 27-1-18-2 (the insurance premiums tax);
 4 as computed after the application of the credits that under
 5 IC 6-3.1-1-2 are to be applied before the credit provided by this
 6 chapter.

7 Sec. 11. As used in this chapter, "taxpayer" means an individual
 8 or entity that has any state tax liability.

9 Sec. 12. (a) A taxpayer who:

10 (1) is a dealer; and

11 (2) operates a service station in Indiana at which more than
 12 sixty percent (60%) of the total gallons of motor fuel sold and
 13 dispensed through a metered pump in a taxable year is a
 14 qualified fuel;

15 is entitled to a credit against the taxpayer's state tax liability.

16 (b) The amount of the credit allowed under this section is the
 17 product of:

18 (1) two and five-tenths cents (\$0.025); multiplied by

19 (2) the total number of gallons of qualified fuel sold and
 20 dispensed through all of the metered pumps located at a
 21 service station described in subsection (a)(2).

22 (c) The credit allowed under this subsection must be computed
 23 separately for each service station operated by the taxpayer that
 24 meets the requirements of subsection (a)(2).

25 Sec. 13. If a pass through entity is entitled to a credit under
 26 section 12 of this chapter but does not have state tax liability
 27 against which the tax credit may be applied, a shareholder,
 28 partner, or member of the pass through entity is entitled to a tax
 29 credit equal to:

30 (1) the tax credit determined for the pass through entity for
 31 the taxable year; multiplied by

32 (2) the percentage of the pass through entity's distributive
 33 income to which the shareholder, partner, or member is
 34 entitled.

35 Sec. 14. (a) If the amount of the credit determined under section
 36 12 of this chapter for a taxpayer in a taxable year exceeds the
 37 taxpayer's state tax liability for that taxable year, the taxpayer
 38 may carry over the excess to the following taxable years. The
 39 amount of the credit carryover from a taxable year shall be
 40 reduced to the extent that the carryover is used by the taxpayer to
 41 obtain a credit under this chapter for any subsequent taxable year.

42 (b) A taxpayer is not entitled to a carryback or refund of any

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1 unused credit.

2 **Sec. 15.** To receive the credit provided by this chapter, a
3 taxpayer must claim the credit on the taxpayer's state tax return
4 or returns in the manner prescribed by the department. The
5 taxpayer shall submit to the department proof of the number of
6 gallons of qualified fuel that the taxpayer sold at each service
7 station for which the taxpayer claims a credit under this chapter
8 and all information that the department determines is necessary
9 for the calculation of the credit provided by this chapter.

10 SECTION 3. [EFFECTIVE JANUARY 1, 2004] IC 6-3.1-25 and
11 IC 6-3.1-26, both as added by this act, apply to taxable years
12 beginning after December 31, 2003.

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